



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 28, 2009

VIA ELECTRONIC AND U.S. MAIL

Shane Novak, Treasurer
Green Party of Luzerne County, PA
308 Spring Street
Hanover Township, PA 18706

RE: MUR 5783
Green Party of Luzerne County, PA

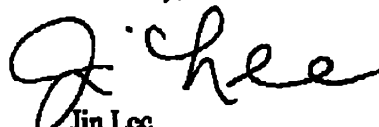
Dear Mr. Novak:

On October 20, 2009, the Federal Election Commission accepted the signed conciliation agreement submitted on your behalf in settlement of violations of 2 U.S.C. §§ 441a(a)(1)(A), 441b(a), and 434(b)(4) and 11 C.F.R. § 104.3(b), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 694-1650.

Sincerely,


Jin Lee
Attorney

Enclosure
Conciliation Agreement

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RECEIVED
FEDERAL ELECTION
COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION

OFFICE OF GENERAL
COUNSEL

In the Matter of

Green Party of Luzerne County, PA and
Shane Novak, in his official capacity as Treasurer

MUR 5783

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe Green Party of Luzerne County, PA, and Shane Novak, in his official capacity as Treasurer (hereinafter "Respondents" or "GPL"), violated 2 U.S.C. §§ 441a(a)(1), 441b(a), and 434(b)(4) of the Federal Election Campaign Act of 1971, as amended ("the Act"), and 11 C.F.R. § 104.3(b).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents enter voluntarily into this agreement with the Commission.

III. The pertinent facts in this matter are as follows:

Applicable Law

1. The Act defines a "contribution" as including "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i).

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2. The Act defines an "expenditure" as including a "purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal Office." 2 U.S.C. § 431(9)(A)(i).
3. The Act prohibits a political committee from knowingly receiving a contribution from a corporation. 2 U.S.C. § 441b(a).
4. During the 2006 election cycle, the Act provided that no person could make contributions with respect to any election for Federal office which, in the aggregate, exceeded \$2,100 in any calendar year. 2 U.S.C. § 441a(a)(1)(A); 11 C.F.R. § 110.1(b).
5. The Act permits coordinated party expenditures that are subject to increased contribution limits. See 2 U.S.C. § 441a(d); 11 C.F.R. § 109.32. In order for a political committee to make a coordinated party expenditure, a qualified national or state party committee, as defined by 2 U.S.C. § 431(14), (15), must assign its authority to make coordinated party expenditures to another political party committee. 11 C.F.R. § 109.33(u). Such an assignment must be made in writing, must state the amount of the authority assigned, and must be received by the assignee committee before any coordinated party expenditure is made pursuant to the assignment. *Id.*
6. A nonconnected political committee that makes disbursements in connection with federal and non-federal elections shall make those disbursements either entirely from funds subject to the prohibitions and limitations of the Act or may allocate

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those disbursements among separate federal and non-federal accounts. *See* 11 C.F.R. § 106.6.

7. Allocation of administrative expenses, including rent, office supplies, and salaries, is limited to disbursements that are not attributable to a clearly identified candidate. 11 C.F.R. § 106.6(h)(1)(i).
8. Each treasurer of a political committee shall file periodic reports of the committee's receipts and disbursements with the Commission. *See* 2 U.S.C. § 434(a)(1). In the case of committees that are not authorized committees of a candidate for Federal office, these reports shall include, *inter alia*, the amount of cash on hand at the beginning of the reporting period, *see* 2 U.S.C. § 434(b)(1); the total amounts of the committee's receipts for the reporting period and for the calendar year to date, *see* 2 U.S.C. § 434(b)(2); and the total amounts of the committee's disbursements for the reporting period and the calendar year to date. *See* 2 U.S.C. § 434(b)(4).
9. A political committee must report the identity of the person who makes a contribution that has an aggregate amount or value in excess of \$200 within the calendar year, or in any lesser amount if the committee should so elect, together with the date and amount of any such contribution. 2 U.S.C. § 434(b)(3)(A).
10. A political committee must report the name and address of each person who has received any disbursement, together with the date, amount, and purpose of any such disbursement. 2 U.S.C. § 434(b)(6)(B)(v); 11 C.F.R. § 104.3(b).

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Factual Background

11. GPL registered with the Commission as a federal political committee in May 2006. GPL is neither a multicandidate committee pursuant to 11 C.F.R. § 100.5(c)(3) nor a local or subordinate committee of a state committee as defined by 11 C.F.R. § 100.14.
12. GPL is affiliated with the Green Party of Pennsylvania ("GPPA").
13. Shane Novak has been the Treasurer of GPL since April 2006.
14. Carl Romanelli has been the Co-Chair of GPL since 2001.
15. Romanelli also ran for the office of U.S. Senate in Pennsylvania in the 2006 election, and his authorized committee, the Romanelli Committee, registered with the Commission in May 2006.
16. Besides Romanelli, seven other Green Party candidates ran for political office in Pennsylvania during the 2006 election cycle. Four individuals ran for seats representing districts in Pennsylvania in the House of Representatives: Dave Baker (2nd District), Titus North (14th District), Greta Browne (15th District), and Derf Maitland (19th District); and three individuals ran for state office: Markay Rogers (Governor), Christine Valente (Lieutenant Governor) and Katrina Heycock (General Assembly).
17. In the spring of 2006, Romanelli began soliciting contributions on behalf of GPL to finance the petition gathering process so that Pennsylvania Green Party candidates could obtain ballot access for the 2006 general election. As a candidate for U.S. Senate, Romanelli needed more than 60,000 signatures to qualify for the ballot in Pennsylvania's general election.

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18. During the 2006 election cycle, GPL raised approximately \$155,000 in contributions.
19. Individuals made most of the contributions to GPL, but GPL received one contribution of \$2,000 from Mr. Sweep's Cleaning Company, a Pennsylvania corporation.
20. Respondents hired JSM, Inc. ("JSM") to secure petitions so that Pennsylvania Green Party candidates, including Romanelli, Baker, Brown, Maitland, and North, could qualify for the ballot in the 2006 general election in Pennsylvania.
21. In 2006, GPL made eight payments, totaling of \$87,748, to JSM for petitioning services in the following manner:

GPL Check No.	Date	Amount
95	6/5/06	24,000
96	6/20/06	20,000
99	7/7/06	1,000
101	7/3/06	12,000
110	7/21/06	1,000
182	8/8/06	20,000
228	8/31/06	4,748
230	9/11/06	5,000
	Total	\$87,748

22. GPL was not able to make coordinated party expenditures because it failed to obtain a valid assignment to have the authority to make such expenditures as required by 11 C.F.R. § 109.33(a).
23. By paying for petitioning services that would assist Romanelli, Maitland, Baker, Brown, and North in qualifying for the Pennsylvania ballot, Respondents made in-kind contributions of approximately \$11,000 to each candidate.

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Reporting of Disbursements to JSM

24. To report the disbursements to JSM as provided in paragraph 24, GPL filed three versions of its 2006 July Quarterly Report.

- i. In the first 2006 July Quarterly Report, filed July 16, 2006, GPL reported \$66,000 as "Other Disbursements" on Line 29 and itemized the disbursements on Schedule B as payments to JSM for ballot qualification on behalf of Carl Romanelli.
- ii. In its Amended 2006 July Quarterly Report, filed Aug. 27, 2006, GPL reported \$66,000 on Line 25 as "Coordinated Party Expenditures," disclosing five separate payments of \$13,200 on Schedule F as coordinated party expenditures on behalf of Romanelli and the four other Green Party candidates, Baker, Browne, Maitland, and North.
- iii. In its second Amended 2006 July Quarterly Report, filed on Oct. 16, 2006, GPL reported the \$66,000 in disbursements on Line 21 as "Operating Expenditures" allocating \$4,620 for federal activity and \$61,380 for non-federal activity. GPL attached a Schedule H4, which disclosed five disbursements of \$13,200 for allocated federal and non-federal activity.

25. However, none of the 2006 July Quarterly Reports described in paragraph 24 were accurate. In June 2006, GPL made two disbursements to JSM, a payment of \$24,000 on June 5, 2006 and \$20,000 on June 20, 2006, totaling \$44,000. See paragraph 21. Given that the disbursements were used on behalf of eight Green Party candidates, GPL should have divided each disbursement or check equally by eight. For amounts attributable to the five federal candidates, GPL should

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have reported \$27,500 on Line 23 for "Contributions to Federal Candidates/Committees." For amounts attributable to the three non-federal candidates, GPL should have reported \$16,500 on Line 29 for "Other Disbursements." In addition, GPL should have itemized these disbursements as in-kind contributions on Schedule B.

26. Between July and September 2006, GPL made six disbursements to JSM, totaling \$43,748. See Paragraph 21. Thus, in the subsequent 2006 October Quarterly Report, by dividing these disbursements equally among the eight candidates, GPL should have reported \$27,312.50 on Line 23 for "Contributions to Federal Candidates/Committees." For amounts attributable to the three non-federal candidates, GPL should have reported \$16,405.50 on Line 29 for "Other Disbursements." As it should have for the July Quarterly Report, GPL should have filed a Schedule B itemizing each disbursement as an in-kind contribution.
27. Because GPL did not have the authority to make coordinated party expenditures, the disbursements to JSM were not coordinated party expenditures, and GPL should have stated that the purpose of these disbursements was for ballot access for a specified Green Party candidate.
28. The disbursements to JSM were not allocable administrative expenses because GPL made the disbursements to help clearly identified candidates, including Romanelli, Baker, Browner, North, and Maitland, qualify for the 2006 Pennsylvania general election ballot. Even if the disbursements were allocable, because GPL established no separate non-federal account as required by 11 C.F.R. § 106.6(a), GPL could not have allocated the federal and non-federal

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expenses and was required to pay for the all of the activities from its federal account.

29. GPL contends that it made good faith attempts to comply with the statutory and regulatory requirements of the Act, and any violations resulted from a lack of understanding of such requirements and were inadvertent.

IV. Respondents committed the following violations:

1. Respondents violated 2 U.S.C. § 441a(a)(1)(A) by making excessive in-kind contributions to a candidate and/or his authorized political committee.
2. Respondents violated 2 U.S.C. § 441b(u) by accepting a prohibited contribution from a corporation.
3. Respondents violated 2 U.S.C. § 434(b)(4) and 11 C.F.R. § 104.3(b) by failing to accurately report disbursements.

V. Respondents will cease and desist from violating 2 U.S.C. §§ 441a(a)(1), 441b(a) and 434(b)(4), and 11 C.F.R. § 104.3(b).

VI. In ordinary circumstances, the Commission would seek a civil penalty based on the violations outlined in this agreement as well as mitigating circumstances. However, based upon representations made by Respondents, including submission of financial documentation, the Commission is taking into account the fact that the GPI is defunct, has no cash on hand, and has little ability to raise any additional funds. Accordingly, the Commission agrees to depart from the civil penalty that the Commission would normally seek for the violations at issue, and the Commission agrees that no civil penalty will be due. If evidence is uncovered indicating Respondents' financial condition is not as stated, a total civil penalty of up to six thousand five hundred dollars (\$6,500) shall be immediately due, pursuant to 2 U.S.C. § 437g(a)(5)(A).

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VII. Respondents agree that the Committee's Treasurer or other personnel responsible for complying with the Act and Commission regulations, including the person who prepares its disclosure reports, will attend an appropriate Commission-sponsored training program for political committees within eighteen (18) months of the effective date of this agreement. Respondents shall submit evidence of registration and attendance at such event to the Commission.

VIII. To the extent they have not already done so, Respondents will amend the FEC reports affected by the activities described herein.

IX. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

X. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.


XI. Except as otherwise provided, Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XII. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

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FOR THE COMMISSION:

Thornasenia P. Duncan
General Counsel

BY: 
Ann Marie Terzaken
Associate General Counsel
For Enforcement

10/27/07
Date

FOR THE RESPONDENTS:


Name: Shune Abouk
Position: Treasurer
Green Party of Luzerne County

08/21/2009
Date

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